

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
MARIA DESOUSA, On Behalf of Herself And	:
All Others Similarly Situated,	:
	:
Plaintiff,	:
	:
vs.	:
	:
LEHMAN BROTHERS HOLDINGS INC.,	:
RICHARD S. FULD, JR., ERIN M. CALLAN,	:
WENDY M. UVINO, MICHAEL L.	:
AINSLIE, JOHN F. AKERS, ROGER S.	:
BERLIND, THOMAS H. CRUIKSHANK,	:
MARSHA J. EVANS, SIR CHRISTOPHER GENT,	:
JERRY A. GRUNDHOFER, ROLAND A.	:
HERNANDEZ, HENRY KAUFMAN, JOHN D.	:
MACOMBER, THE EMPLOYEE BENEFIT	:
PLANS COMMITTEE, THE COMPENSATION	:
AND BENEFITS COMMITTEE and JOHN DOES	:
1-10,	:
	:
Defendants.	:
-----X	

-to be consolidated with-

**DEFENDANTS' RESPONSE TO PLAINTIFF MARIA DESOUSA'S MOTION FOR (1)
CONSOLIDATION, (2) APPROVAL OF THE PROPOSED LEADERSHIP
STRUCTURE AND (3) ENTRY OF [PROPOSED] PRETRIAL ORDER NO. 1**

-----X	
MONIQUE MILLER FONG, On Behalf of Herself	:
And All Others Similarly Situated,	:
	:
Plaintiff,	:
	:
vs.	:
	:
LEHMAN BROTHERS HOLDINGS INC.,	:
RICHARD S. FULD, JR., MICHAEL L.	:
AINSLIE, JOHN F. AKERS, ROGER S.	:
BERLIND, THOMAS H. CRUIKSHANK,	:
MARSHA JOHNSON EVANS, SIR	:
CHRISTOPHER GENT, JERRY A.	:
GRUNDHOFER, ROLAND A. HERNANDEZ,	:
HENRY KAUFMAN, JOHN D. MACOMBER,	:
ERIN M. CALLAN, WENDY M. UVINO, THE	:
EMPLOYEE BENEFIT PLANS COMMITTEE,	:
and JOHN DOES 1-10,	:
	:
Defendants.	:
-----X	
<i>-to be consolidated with-</i>	

Civil Action No. 08-cv-6282

-----X	
JO ANNE BUZZO, On Behalf of Herself	:
And All Others Similarly Situated,	:
	:
Plaintiff,	:
	:
vs.	:
	:
LEHMAN BROTHERS HOLDINGS INC.,	:
WENDY M. UVINO, LEHMAN BROTHERS	:
HOLDINGS INC. EMPLOYEE BENEFIT PLANS	:
COMMITTEE, JOHN DOES 1-10, HENRY	:
KAUFMAN, JOHN F. AKERS, ROGER S.	:
BERLIND, MARSHA JOHNSON EVANS, AND	:
ROLAND A. HERNANDEZ	:
	:
Defendants.	:
-----X	
<i>-to be consolidated with-</i>	

Civil Action No. 08-cv-6245

-----X	:	
ALEX E. RINEHART, On Behalf of Himself And	:	
All Others Similarly Situated,	:	
	:	Civil Action No. 08-cv-5598
Plaintiff,	:	
	:	
vs.	:	
	:	
LEHMAN BROTHERS HOLDINGS INC.,	:	
RICHARD S. FULD, JR., MICHAEL L.	:	
AINSLIE, JOHN F. AKERS, ROGER S.	:	
BERLIND, THOMAS H. CRUIKSHANK,	:	
MARSHA JOHNSON EVANS, SIR	:	
CHRISTOPHER GENT, ROLAND A.	:	
HERNANDEZ, HENRY KAUFMAN, JOHN D.	:	
MACOMBER, ERIN M. CALLAN, WENDY M.	:	
UVINO, THE EMPLOYEE BENEFIT PLANS	:	
COMMITTEE, and JOHN DOES 1-10,	:	
	:	
Defendants.	:	
-----X	:	

Defendants Lehman Brothers Holdings, Inc. (“Lehman”), the Employee Benefit Plans Committee, the Compensation and Benefits Committee, Michael L. Ainslie, John F. Akers, Roger S. Berlind, Erin M. Callan, Thomas H. Cruikshank, Marsha Johnson Evans, Richard S. Fuld, Jr., Sir Christopher Gent, Jerry A. Grundhofer, Roland A. Hernandez, Henry Kaufman, John D. Macomber and Wendy M. Uvino (collectively, with Lehman, “Defendants”), submit this response to Plaintiff Maria DeSousa’s Motion for (1) Consolidation, (2) Approval of the Proposed Leadership Structure and (3) Entry of [Proposed] Pretrial Order No. 1.

As noted in Defendants’ July 25, 2008 response to the motions of Plaintiffs Rinehart, Fong and Buzzo,¹ Defendants concur with the various motions to consolidate the (now)

¹ See Defendants’ Response to Plaintiffs Rinehart’s and Fong’s Joint motion to Consolidate Erisa Cases, Appoint Interim Class Co-Counsel, and for entry of Pretrial Order No. 1 and Plaintiff Buzzo’s Motion for Consolidation of Related Actions and for

four related Employee Retirement Income Security Act of 1974 (“ERISA”) cases brought on behalf of the Lehman Brothers Savings Plan (the “Plan”) and a class of Plan participants and beneficiaries: *Rinehart v. Lehman Brothers Holdings Inc., et al.*, No. 08-cv-5598 (filed June 20, 2008), *Fong v. Lehman Brothers Holdings Inc., et al.*, No. 08-cv-6282 (filed July 11, 2008) *Buzzo v. Lehman Brothers Holdings Inc., et al.*, No. 08-cv-6245 (filed July 10, 2008), and *DeSousa v. Lehman Brothers Holdings Inc., et al.*, No. 08-cv-6626 (filed July 25, 2008) (collectively, the “Related ERISA Actions”).

Defendants take no position on the competing motions for the appointment of interim lead plaintiff, interim lead counsel, interim liaison counsel and/or executive committee members.

In the July 25 filing, Defendants informed the Court that the parties were attempting to negotiate a preliminary schedule in the Related ERISA Actions for the filing of a consolidated amended complaint and any subsequent responsive pleadings or motions. It was Defendants’ hope that the parties could agree on a proposed schedule that would coordinate with the preliminary schedule ordered by this Court on July 24, 2008, and modified by a separate order on August 7, 2008, in the related securities action, *Operative Plasterers and Cement Masons Int’l Ass’n Local 262 Annuity Fund v. Lehman Bros. Holdings, Inc., et al.*, No. 08-cv-5523 (filed June 18, 2008) (the “Securities Action”). Despite good faith efforts the parties have been unable to mutually agree on a precise schedule to present to the Court.² However, the

Appointment of Interim Lead Plaintiff, Interim Lead Counsel and Interim Liaison Counsel.

² As per the Order of this Court, dated August 7, 2008, (1) Defendants are not required to answer, move against or otherwise respond to the four individual ERISA complaints, and (2) at the appropriate time and upon appointment of ERISA interim lead counsel, the Court will set a schedule for the filing of a consolidated amended complaint and any subsequent motions or other responses to the consolidated amended complaint.

parties have generally agreed that the schedule governing the filing of the consolidated amended complaint and response to that complaint should be coordinated with the schedule in the Securities Action.

In order to coordinate the consolidated amended complaint and motion practice schedule in the Related ERISA Actions with that already in place in the related Securities Action, Defendants respectfully submit that the Court enter the following schedule, which as closely as possible tracks the schedule in the Securities Action:

1. The ERISA Lead Plaintiff shall file and serve an ERISA Consolidated Amended Complaint no later than 30 days from an Order appointing ERISA Interim Lead Counsel.
2. Defendants shall file and serve responsive pleading(s) or motion(s) no later than 45 days after the filing of the ERISA Consolidated Amended Complaint.
3. If any Defendant moves to dismiss the ERISA Consolidated Amended Complaint, ERISA Lead Plaintiff shall file and serve opposition brief(s) no later than 21 days after the filing of Defendants' motion(s).
4. Defendants shall file and serve reply brief(s) no later than 30 days after the filing of ERISA Lead Plaintiffs' opposition brief(s).

Dated: August 11, 2008
New York, New York

Respectfully submitted,

SIMPSON THACHER & BARTLETT LLP

By: /s/ Jonathan K. Youngwood

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Counsel for Defendants